

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF IOWA  
EASTERN DIVISION

ERIC BANSE, )  
Petitioner, ) No. C 08-1004 EJM  
vs. ) ORDER  
STATE OF IOWA, )  
Respondent. )

This matter is before the court on petitioner's resisted Application for Writ of Habeas Corpus, filed February 7, 2008, and on respondent's resisted Motion to Dismiss, filed May 13, 2008. Application denied. Dismissed.

Petitioner brings this action pursuant to 28 USC §2254 challenging the legality of his state-court conviction for various crimes. The court has jurisdiction pursuant to 28 USC §1331.

Petitioner seeks review of his state court convictions which were affirmed by the Iowa Court of Appeals on July 31, 2001, the review of which was thereafter denied by the Iowa Supreme Court on October 26, 2001. Respondent seeks dismissal, asserting that the petition is untimely.

28 USC §2244(d) provides a one year period of limitation for applications for writ of habeas corpus by persons in custody pursuant to the judgment of a state court, and so far as applicable here, the limitation period runs from the date the judgment became final by the conclusion of direct review or the expiration of the time

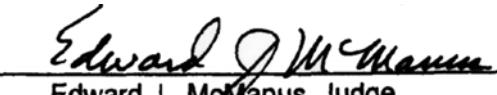
for seeking direct review. 28 USC §2254(d)(1)(A). In the instant case, it appears that petitioner did not seek review in the US Supreme Court, though he would have had 90 days following the Iowa Supreme Court's decision within which to do so, i.e., until January 24, 2002. Applying the one year limitation period of 28 USC §2244(d)(1)(A), the time for filing this action expired on January 24, 2003. The action is therefore untimely.

It is therefore

ORDERED

Dismissed.

July 10, 2008.

  
Edward J. McManus, Judge  
UNITED STATES DISTRICT COURT